

Kiedinger



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: James R. Atchison

File: B-238614

Date: July 26, 1990

DECISION

Mr. James R. Atchison, through counsel, has appealed our Claims Group Settlement, 2-2866296, April 6, 1989. That settlement sustained his employing agency's finding of travel voucher fraud and upheld its action to recoup reimbursements made to him for certain lodging expenses.

Mr. Atchison, a discharged employee of the Air Force, performed temporary duty travel in 1980 and 1981 and claimed the cost of lodging on various travel vouchers. Following reimbursement, an Air Force investigation developed that a number of lodging receipts submitted by him to support those voucher payments were of questionable validity. It was eventually established that, although the receipts purported to show that he had made payment, Mr. Atchison actually had not paid for that lodging. Mr. Atchison did not make payment for those lodging costs until well after the fact of nonpayment was established.

Eventually, Mr. Atchison was discharged from federal employment. In 1987 the Air Force recovered the amounts it had previously paid to him in 1980 and 1981.

In his appeal, Mr. Atchison's counsel argues that our settlement was based on incomplete records and hearsay evidence. He contends that there is no direct evidence showing that Mr. Atchison accepted free lodging at the Park Fairfax Lodge (PFL) or falsified lodging receipts. He also argues that the vouchers signed by Mr. Atchison only certified that he had incurred a particular obligation at the time the voucher was submitted which would be paid later, likening it to a credit card transaction. Further, since Mr. Atchison subsequently made payment, all conditions supporting reimbursement were satisfied; hence, counsel contends there was no fraud.

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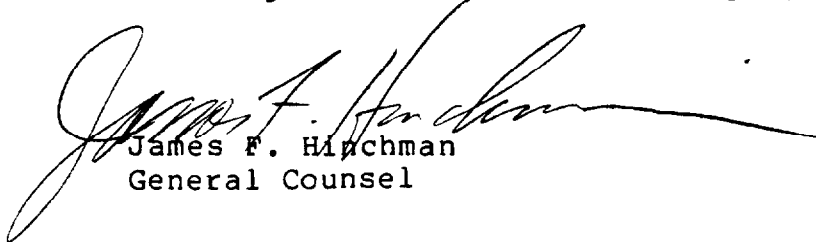
We have reviewed the settlement issued by our Claims Group and conclude that the facts which are central to the case do not support counsel's argument. The Claims Group found that the record supported the conclusion that the lodging claims in issue were fraudulent. We have also examined the record carefully and we agree with the Claims Group's conclusion.

The file contains copies of lodging receipts from the PFL issued to Mr. Atchison for dates he stayed there. Each receipt shows a lodging charge and a credit for full payment made by him at the time. These receipts were marked paid and initialed, and included one marked as a cash payment. Mr. Atchison included these lodging receipts with the vouchers he submitted in 1980 and 1981, and was reimbursed based on those lodging receipts.

As to the credit card analogy, there was no indication on the vouchers or the receipts that any payments were to be deferred. In this regard, Mr. Atchison's counsel has not furnished any evidence to show that Mr. Atchison was ever billed by PFL, as would be the case in a credit card transaction. In fact, it appears from the record that Mr. Atchison's 1983-1984 payments to PFL were self-initiated.

The submission of lodging receipts marked paid showing no outstanding balance due in order to obtain reimbursement represents not only that an obligation to pay was incurred, but that it was satisfied by actual payment. Since Mr. Atchison had not made that payment when he sought reimbursement, the reimbursement was obtained by misrepresentation. We have held that subsequent actions taken by an employee in an effort to rectify a prior fraudulent act neither makes the prior act less fraudulent nor does it avoid the resultant consequences of the fraud. Mark J. Worst, B-223026, Nov. 3, 1987.

Accordingly, we conclude that Mr. Atchison had no legitimate basis to claim reimbursement from the Air Force for lodging expenses for his stay at PFL and we concur with our Claims Group conclusions that the Air Force's finding of indebtedness due to fraud was valid and that the collection action taken against Mr. Atchison was proper.


James F. Hinchman
General Counsel